

ORIGINAL

Before the **DOCKET FILE COPY ORIGINAL**  
**Federal Communications Commission**  
**Washington, D.C. 20554**

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) MM Docket No. 97-178  
Table of Allotments, ) RM-8329  
FM Broadcast Stations, ) RM-8739  
(West Hurley and Rosendale, New York, )  
North Canaan and Sharon, Connecticut) )

To: Chief, Allocations Branch

**RECEIVED**  
OCT 21 1997  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**REPLY of SUNY**

State University of New York ("SUNY"), by its counsel, replies to the comments filed with respect to the above-captioned matter.

As previously explained by SUNY, the allotments proposed in this proceeding are entirely contingent on resolution of MM Docket 93-17 and SUNY's proposed use of Channel 255A or Channel 273A for modified Station WFNP(FM) at Rosendale, New York.

With that understanding in mind, SUNY reviewed the comments in the instant proceeding. Under the FCC's well-established criteria for FM allotments, SUNY's counterproposal for Channel 273A at Rhinebeck, New York is preferred over the West Hurley or North Canaan proposals. *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982), *recon. denied* 56 RR2d 48 (1984). First, allotting Channel 273A to Rhinebeck, New York would provide first local aural transmission service to the community, in accordance with Priority 3. Second, Rhinebeck, New York (population 7,558 persons) is a larger community than either West Hurley, New York (population 2,252 persons) or North Canaan, Connecticut (population 3,284 persons). In a choice among competing proposals that involved Priority 3, the Commission has uniformly preferred the larger community under Priority 4, based on a straight

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population comparison. *See, e.g., Blanchard, Louisiana and Stephens, Arkansas*, 8 FCC Rcd 7083 (1993), *rev. denied*, 10 FCC Rcd 9828 (1995); *Good Hope and Bostwick, Georgia*, 6 FCC Rcd 5796 (1990).

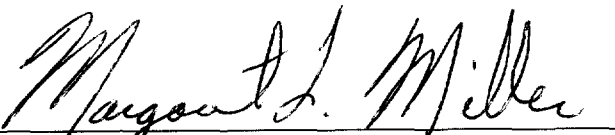
Third, reserving Channel 273A for noncommercial educational use is consistent with Commission policies, because use of a reserved band channel is precluded by Channel 6 interference considerations. Moreover, reserving Channel 273A would provide significant numbers of persons with a first or second noncommercial educational radio programming service, consistent with Section 396(a) of the Communications Act of 1934, which declares that the public interest is served by extending noncommercial educational broadcasting service to unserved and underserved areas. Fourth, while SUNY sympathizes with the applicants for Channel 273A at Rosendale, New York, who must select new transmitter sites, those applicants are not entitled to have their individual site preferences protected by SUNY's counterproposal or the other proposals in this rulemaking.

Finally, Sacred Heart University ("SHU") claims that public interest benefits will flow from the allotment of Channel 277A to North Canaan because Station WQQQ can be upgraded from 3 kilowatts to 6 kilowatts on Channel 273A with a site relocation. This public interest benefit is illusory. As shown in the attached Engineering Statement, Station WQQQ could be upgraded on its current channel with a site relocation (and could be upgraded, to some degree, at its current site or applied-for site). Thus, any public interest benefits associated with the upgrade of Station WQQQ are unrelated to SHU's proposal and should not be considered by the Allocations Branch in this proceeding.

For the reasons stated above, SUNY submits that its counterproposal is preferred to the West Hurley and North Canaan proposals under Commission rules, policies and precedent. SUNY reiterates its intention to apply for Channel \*273A at the Town of Rhinebeck, New York, if allotted as proposed, and to promptly construct the station if the permit is awarded to SUNY.

Respectfully submitted,

**STATE UNIVERSITY OF NEW YORK**

By: 

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Its Attorneys

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October 21, 1997

**ATTACHMENT 1**

**ENGINEERING STATEMENT**

**Engineering Exhibit #EE-1 in support of the  
State University of New York Reply Comments in MM Docket 97-178**

**General**

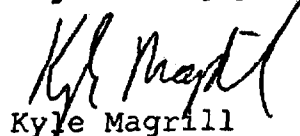
Radio South Burlington, Inc. (RSB), Licensee of WQQQ, Sharon, CT expressed in its comments their belief that a change in frequency from the existing channel 277A to channel 273A would serve the public's interest because channel 273A offers areas to locate that would allow WQQQ to serve a larger population. WQQQ is currently licensed at the equivalent of 3kW at 100m due to a minor short spacing to WGNV, 276A, Newburgh, NY. RSB also has an application pending for modification of WQQQ's facilities specifying a new transmitter location, HAAT and power. The purpose of this engineering exhibit is to demonstrate that a large area exists on WQQQ's present channel where operation at maximum class A facilities is possible. Additionally, if WQQQ elected to change sites to the clear spaced area on channel 277A, a larger population could be covered than from either their present or proposed locations.

**Discussion**

Table 1 is a frequency search showing the constraining factors for locating WQQQ's transmitter. Figure 1 is a map, graphically showing the available area in which WQQQ can locate on channel 277A using maximum facilities. Of course, many other locations are possible, including the existing WQQQ site by employing section 73.215 of the rules.

Figure 2 is a coverage map from one possible upgrade location. The 60dBu contour covers the large community of Kingston, NY and would serve a total population of 133,572 persons. By contrast, WQQQ were to upgrade on channel 273A at their existing site, the total population within the 60dBu contour would be 99,883 persons. Figure 3 is a map showing WQQQ's possible coverage from the existing site on channel 273A. An upgrade on channel 273A at the location proposed in WQQQ's application would serve 121,174 persons in the 60dBu contour. Figure 4 is a map depicting coverage from maximum facilities on at WQQQ's application site. Clearly, it is not necessary for WQQQ to change frequencies in order to increase its coverage area or upgrade to 6kW.

Engineering prepared by:



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## Magrill &amp; Associates

Source Data is the NTIS/FCC database. We are not responsible for data errors.

Exhibit # EE-1, Table 1  
One possible WQQQ 6kW Upgrade location on ch 277A

## REFERENCE

41 59 00 N

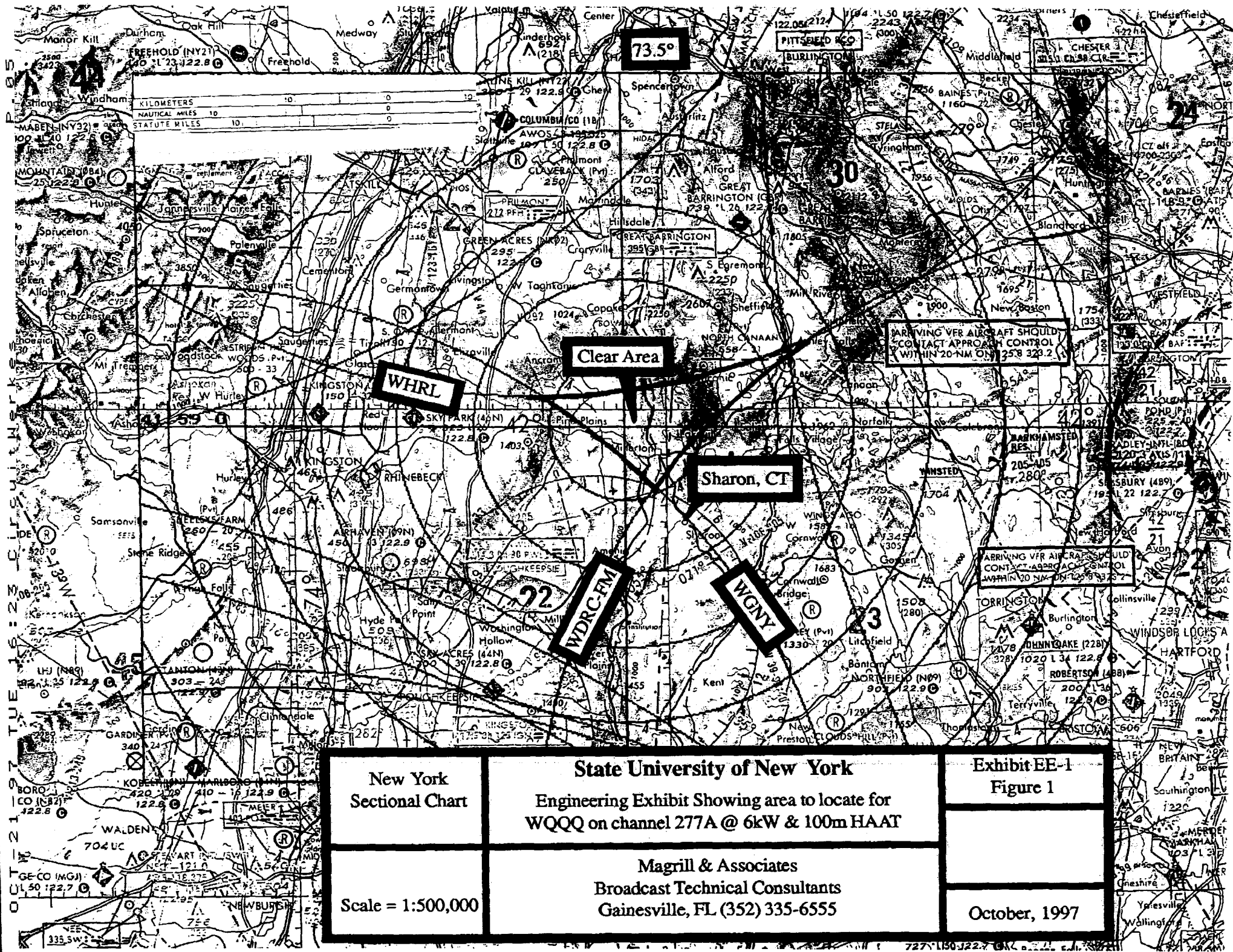
73 33 30 W

## CLASS A

Current rules spacings

CHANNEL 277 -103.3 MHz

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WGNYSM	276A	Newburgh	NY	220.5	74.52	72.0	2.52 <
LI CN	41 28 22	74 08 22	3.500 kW	84M	46.3	44.8	
Sunrise Broadcasting of New Y					BMLH920407KD		
WHRL	276A	Albany	NY	352.6	76.10	72.0	4.10
LI CN	42 39 46	73 40 37	3.000 kW	99M	47.3	44.8	
Regal Broadcasting Corporatio					BLH890324IA		
>Referred to Canada as B1 on 951011-Accepted by Canada 960220							
WDRCFM	275B	Hartford	CT	128.2	75.57	69.0	6.57
LI CN	41 33 44	72 50 40	19.500 kW	247M	47.0	42.9	
Buckley Broadcasting Corporat					BLH791106AH		
WODS	277B	Boston	MA	79.4	196.28	178.0	18.28
LI CN	42 18 27	71 13 27	16.000 kW	270M	122.0	110.6	
CBS Inc.					BLH871029KC		
WQBJ	278B	Cobleskill	NY	325.1	134.03	113.0	21.03
LI CN	42 58 21	74 29 30	50.000 kW	150M	83.3	70.2	
Maximum Media, Inc.					BLH950118KB		
WKTU.C	278B	Lake Success	NY	196.0	145.14	113.0	32.14
CP CN	40 43 38	74 02 14	2.000 kW	164M	90.2	70.2	
BPI New York License Subsidia					BPH950306IY 961020		
WPRB	277B	Princeton	NJ	206.7	211.32	178.0	33.32
LI CN	40 17 00	74 41 20	14.000 kW	223M	131.3	110.6	
Princeton Broadcasting Servic					BLH911028KB		





73.5°

PITTSBURGH CO  
BURLINGTON

CHESTER CT  
US 31 Co 38 CTR

State University of New York  
Engineering Exhibit Showing Coverage Area  
for WQQW on Channel 277A at Figure 1 Site

Magrill & Associates  
Broadcast Technical Consultants  
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Exhibit EE-1  
Figure 2

New York  
Sectional Chart

Scale = 1:500,000

Sharon, CT

70dBp

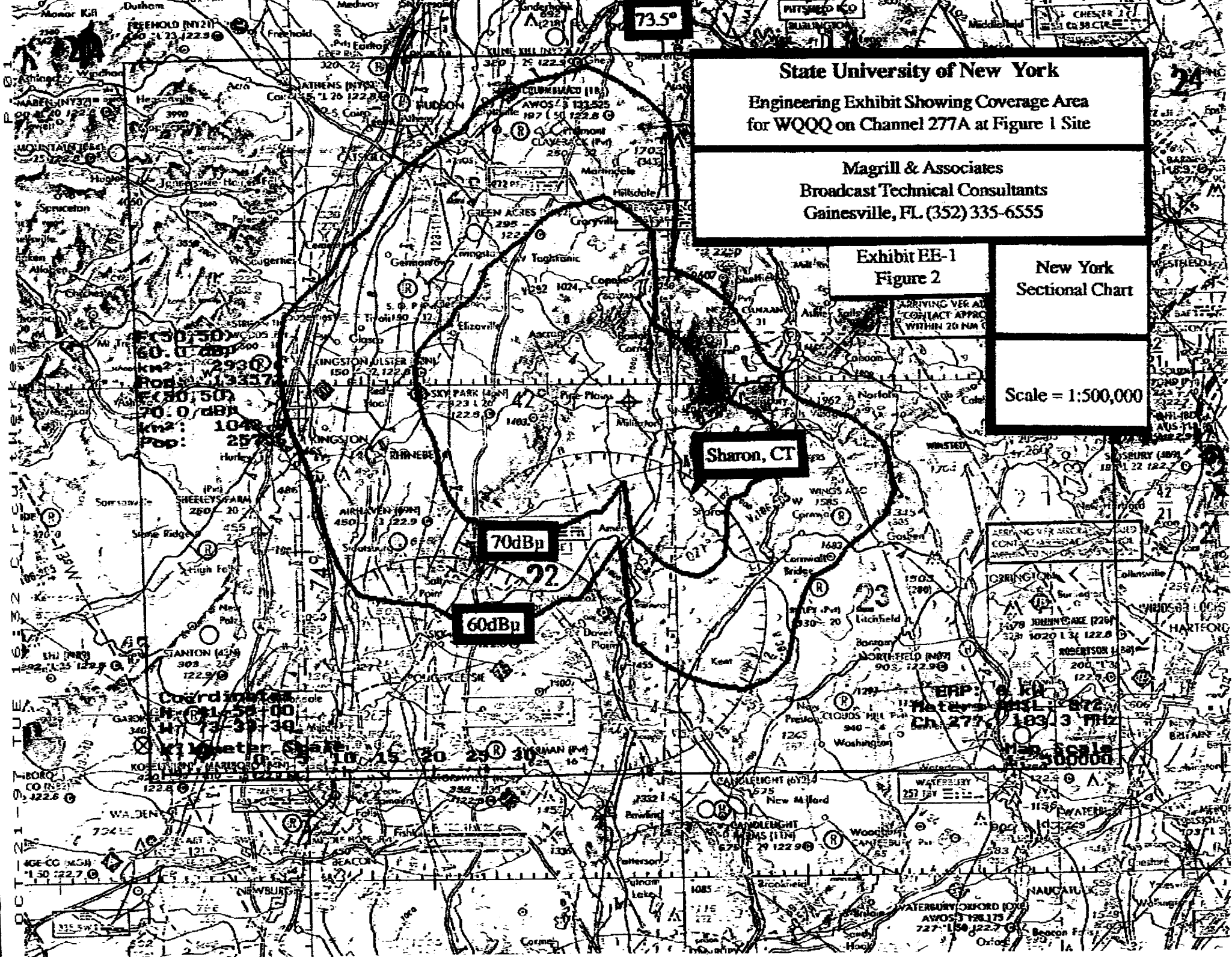
60dBp

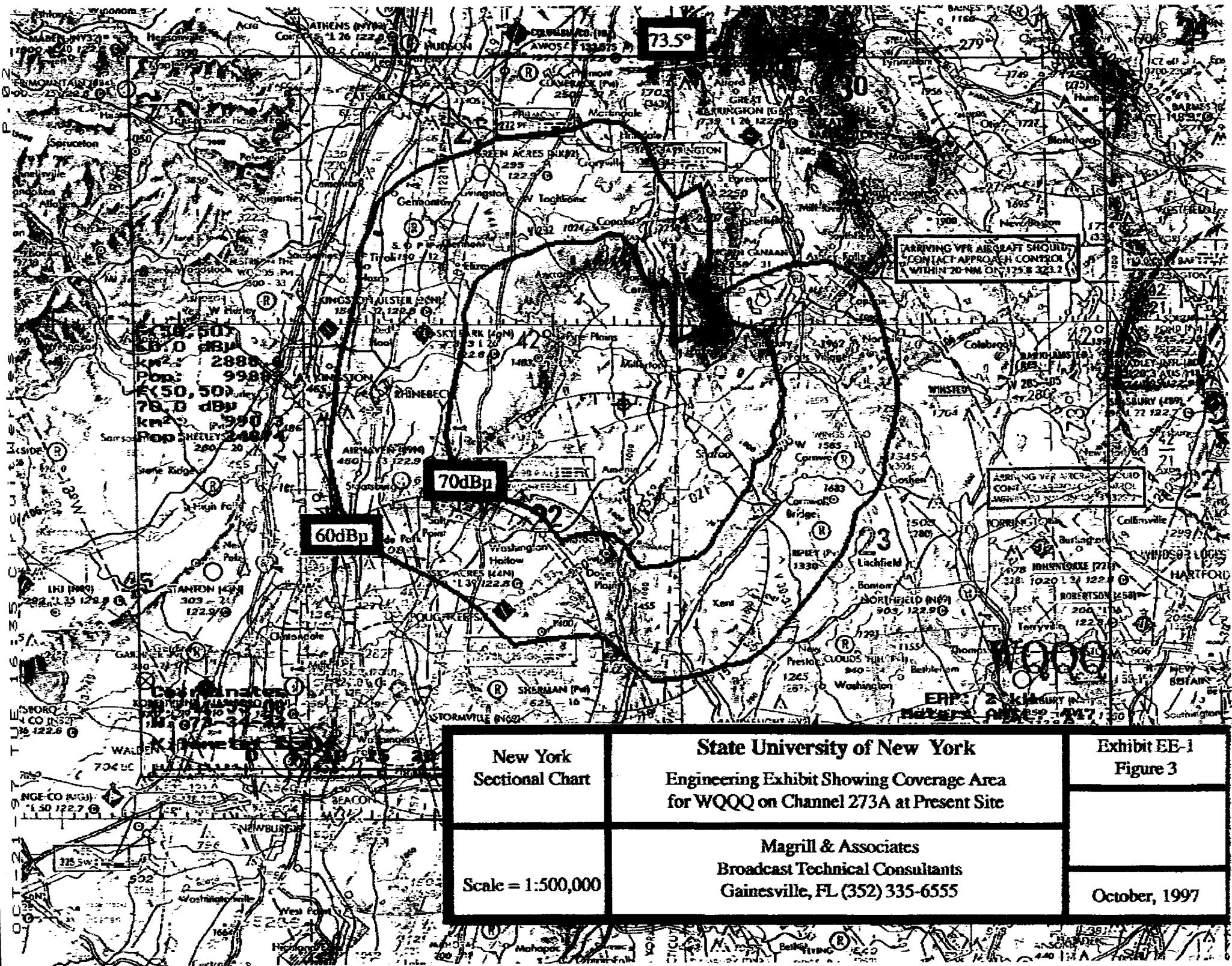
Coordinates  
N 41-50-00  
W 73-30-30

10 15 20 25 30  
Kilometer Scale

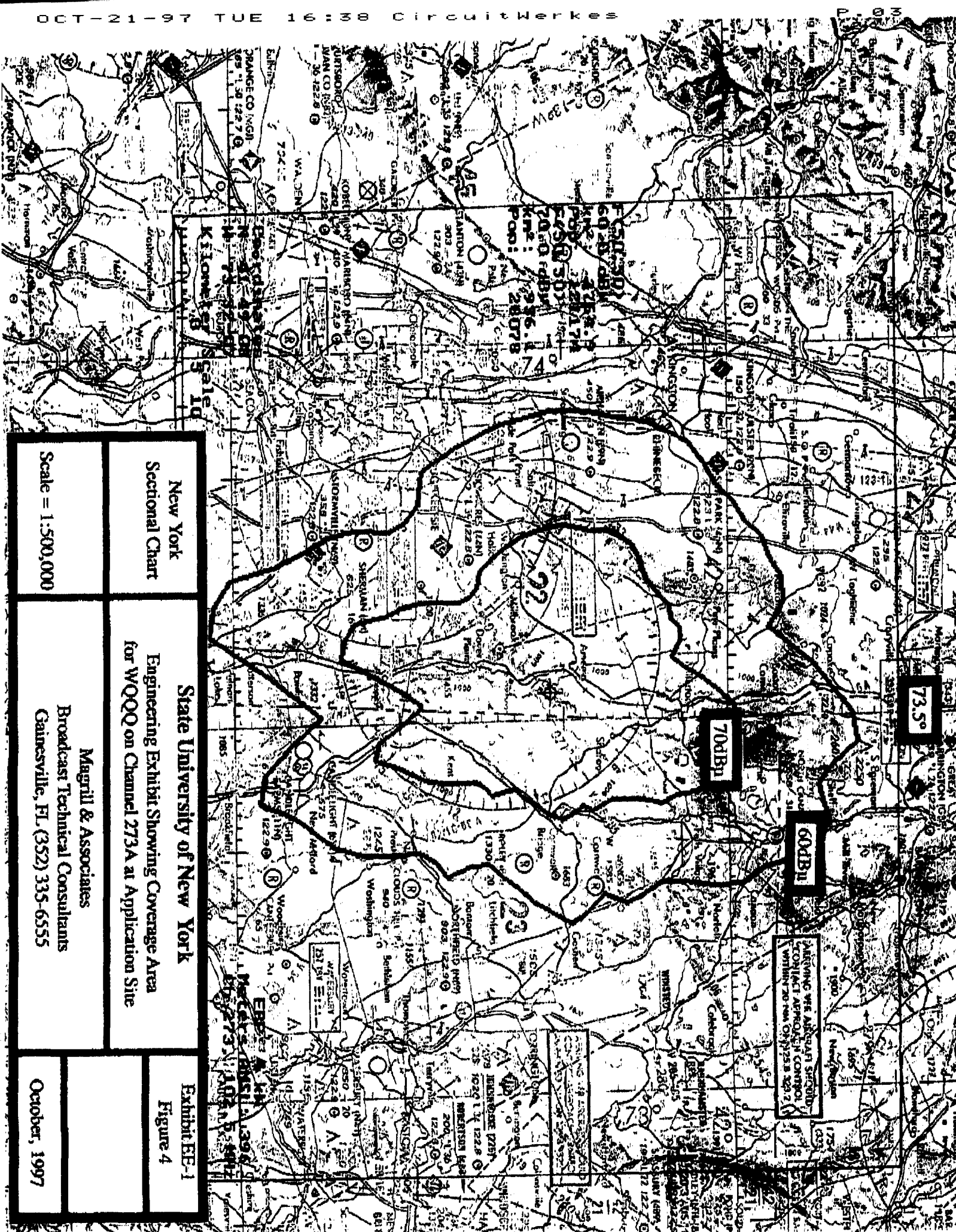
ERP: 6 kW  
Watersbury, CT  
Ch. 277A 183.3 MHz

Map Scale  
1:500,000





New York Sectional Chart	State University of New York Engineering Exhibit Showing Coverage Area for WQQW on Channel 273A at Present Site	Exhibit EE-1 Figure 3
Scale = 1:500,000	Magrill & Associates Broadcast Technical Consultants Gainesville, FL (352) 335-6555	October, 1997



## CERTIFICATE OF SERVICE

I, Susan J. Fischer, of Dow, Lohnes & Albertson, certify that a copy of the forgoing Comments of SUNY were mailed, first class, postage prepaid, this 21st day of October, 1997 to the following:

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\*By Hand Delivery